

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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MONDAY, JUNE 28, 1999

At 9:34 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session.

PRESENT: SCOTLAND, Presiding Justice
 NICHOLSON, Associate Justice
 KOLKEY, Associate Justice

Bailiff: Rios
Calendar called.

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|---------|--------------------------------|
| Civil | CHARLES HENDERSON |
| No. | v. |
| C029501 | J. CHRISTOPHER HOLLOWAY et al. |

Cause called. David R. Beck, of Beck & Mathiesen argued for Plaintiff-Appellant. Orlie L. Curtis, of Kroloff, Belcher, Smart Perry & Christopherson argued for Defendants-Respondents Holloway et al. Barbara A. Cutter of Murphy, Pearson Bradley & Feeney appeared on behalf of Defendant-Respondent Tauman but did not argue. Cause submitted.

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
MONDAY, JUNE 28, 1999 CONTINUED**

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At 10:06 a.m., court recessed. At 10:09 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Davis, and Associate Justice Hull.

Civil Estate of ATTILIO DELLA SALA, Deceased.
No. ANTHONY DELLA SALA
C027688 v.
 FATHER FLANAGAN'S BOYS HOME

Cause called. William Walters argued for Petitioner-Appellant with additional citations. Kathleen R. Lazard argued for Objector-Respondent. Cause submitted.

At 10:29 a.m., court recessed. At 10:30 a.m., court reconvened with the same panel except Acting Presiding Justice Sims in place of Presiding Justice Scotland.

Juvenile In re DAVID S., a Person Coming Under the Juvenile Court Law.
No. THE PEOPLE
C028059 v.
 DAVIS S.

Cause called. Richard Doctoroff, court appointed counsel argued for Defendant-Appellant. No appearance was made on behalf of Plaintiff-Respondent as argued having been previously waived and approved. Cause submitted.

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
MONDAY, JUNE 28, 1999 CONTINUED**

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At 10:40 a.m., court recessed. At 10:45 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson, and associate Justice Kolkey.

Civil ALICE PICHLY et al.
No. v.
C029714 NORTECH WASTE et al.

Cause called. Tammy SA. Brown, of Aiken, Kramer & Cummings argued for Defendants-Appellants. Domenic D. Spinelli, of Edson, LaPlante & Spinelli argued for Plaintiffs-Respondents.

At 11:28 a.m., court recessed. At 2:02 p.m., court reconvened with Presiding Justice Scotland, Associate Sims, and Associate Justice Davis.

Crim. THE PEOPLE
No. v.
C025568 RANDY REVAK

Cause called. Eric Weaver, court appointed counsel argued for Defendant-Appellant. Janine R. Busch, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

Civil LANNY REED
No. v.
C025718 DENNIS WILSON et al.

Cause called. Kathleen T. Rogan, of Mackenroth, Ryan & Fong argued for Defendants-Appellants. Philip A. Cooke argued for Plaintiff-Respondent. Cause submitted.

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
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MONDAY, JUNE 28, 1999 CONTINUED**

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At 2:55 p.m., court recessed. At 2:56 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Morrison and Associate Justice Kolkey.

Civil RICH FRUIT PAK COMPANY et al.
No. v.
C025624 AMERICAN PROTECTIVE SERVICES et al.

Cause called. Thomas M. Regan, of Cozen and O'Connor argued for Plaintiffs-Appellants. Charles E. Wheeler, of Cozen and O'Connor appeared for Plaintiffs-Appellants but did not argue. Joseph P. Mascovich, of Crosby, Heafey, Roach & May argued for Defendants-Respondents. Cause submitted.

Civil GERALD REESE
No. v.
C029199 WAL-MART STORES, INC. et al.

Cause called. Donald Driscoll argued for Plaintiff-Appellant. David Faustmen, of Faustman, Carlton, Disante & Freudenberger argued for Defendants-Respondent. Cause submitted.

At 4:02 p.m., court recessed. At 4:05 p.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson, and Associate Justice Kolkey.

Civil UNITED PUBLIC EMPLOYEES LOCAL #1
No. v.
C030367 COUNTY OF SACRAMENTO et al.

Cause called. Paul Q. Goyette, of Goyette & Adams argued for Plaintiff-Appellants. Timothy D. Weinland, Deputy County Counsel argued for Defendants-Respondents. Cause submitted.

Court adjourned at 4:25 p.m., until 9:30 a.m., Monday July 19, 1999.

**MINUTES OF THE COURT OF APPEAL
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TUESDAY, JUNE 29, 1999

Civil SUNNY D. HOBSON et al.
No. v.
C032689 CRAIG H. LARSON, etc. et al.
BY THE COURT:

Appellant Sunny Hobson's motion to reinstate the appeal is granted.
The order of June 9, 1999, dismissing the appeal is vacated, and the appeal is reinstated.

The Butte County Clerk may proceed with the preparation of the record on appeal.

Dated: June 29, 1999

SCOTLAND, P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028608 DANIEL RAY MORTON

The judgment of conviction is affirmed, and this matter is remanded to the trial court for a hearing in accordance with this opinion. Following the hearing, the trial court is directed to prepare a new abstract of judgment and to forward a copy to the Department of Corrections.

DAVIS, J.

We concur: SCOTLAND, P.J.
 KOLKEY, J.

Crim. TH PEOPLE (Not for Publication)
No. v.
C029490 JAMES GINO PARDINI

The judgment is affirmed.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
 NICHOLSON, J.

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
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TUESDAY, JUNE 29, 1999 CONTINUED**

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Crim. THE PEOPLE (Not for Publication)
No. v.
C028880 JERRY L. RABON

The judgment is modified to award defendant a total of 266 days of presentence custody credits and affirmed as modified. The court is directed to correct the date of judgment shown on the abstract of judgment, correct the number of presentence credits as awarded under the modified judgment, and forwarded a copy of the amended abstract to the Department of Corrections.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
NICHOLSLON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C027424 TREVOR JAMES HEARD et al.

The judgment is affirmed the abstract of judgment is corrected to indicate defendant Loya was armed with a firearm in the commission of the murder (Pen. Code, §120322. Subd. (a)). The trial court is directed to prepare a new abstract of judgment and to forward it to the Department of Corrections.

HULL, J.

We concur: SCOTLAND, P.J.
MORRISON, J.

Crim. SANDR J. MOUNT, (Not for Publication)
No. v.
C029759 OCWEN FEDERAL BANK et al.,

The judgment is reversed and the matter remanded with directions to enter a new order denying defendants' motion for summary judgment. Plaintiff shall received her costs on appeal

HULL, J.

We concur; SIMS, Acting P.J.
CALLAHAN, J.

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THURSDAY, JULY 1, 1999

Crim. THE PEOPLE (Not for Publication)
No. v.
C026441 EARL DAVID DRAKE
The judgment is affirmed.
SIMS, Acting P.J.
We concur: DAVIS, J.
CALLAHAN, J.

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We concur: NICHOLSON, J.
KOLKEY, J.

We concur: NICHOLSON, J.
KOLKEY, J.

We concur: SCOTLAND, P.J.
MORRISON, J.

**MINUTES OF THE COURT OF APPEAL
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THURSDAY, JULY 1, 1999, CONTINUED**

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Civil PAMELA D. (Not of Publication)
No. v.
C032498 SUPERIOR COURT OF SACRAMENTO COUNTY

DEPARTMENT OF HEALTH AND HUMAN SERVICES
The petition and request for a stay are denied.
SCOTLAND, P.J.

We concur: NICHOLSON, J.
 KOLKEY, J.

Civil CHARLES HENDERSON (Not for Publication)
No. v.
C029501 J. CHRISTOPHER HOLLOWAY et al.

The judgment is reversed, and the matter is remanded to the trial
court for further proceedings in accordance with this opinion. Henderson
shall recover his costs on appeal.

NICHOLSON, J.

We concur: SCOTLAND, P.J.
 KOLKEY, J.

Civil In re VICTORIA P., A Person Coming Under the Juvenile Court Law
No. ----- (Not for Publication)
C031829 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 v.
 DAVEDA P.

The judgment (orders of the juvenile court) is affirmed.
SCOTLAND, P.J.

We concur: NICHOLSON, J.
 KOLKEY, J.

Civil M. JEFFREY KALLIS (Not for Publication)
No. v.
C029208 FRANCHISE TAX BOARD

Appellant's request to publish the opinion filed June 15, 1999, is
denied.

SIMS, Acting P.J.

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We concur: RAYE, J.
 MORRISON, J.

Civil MISTY W.
No. v.
C032427 SUPERIOR COURT OF SACRAMENTO COUNTY

SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

The petition is denied.

SIMS, Acting P.J.

We concur: DAVIS, J.
 RAYE, J.

Civil EDNA CRANDALL
No. v.
C028574 CITY OF SACRAMENTO

The judgment is reversed. Plaintiff is awarded her costs.

DAVIS, J.

I concur: SIMS, Acting P.J.
I respectfully dissent: RAYE, J.

Civil RICKY RAY SWIGART (Not for Publication)
No. v.
C030260 FARMERS INSURANCE EXCHANGE

The judgment is affirmed. Defendant shall recover its costs on appeal.

KOLKEY, J.

We concur: SCOTLAND, P.J.
NICHOLSON, J.

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For the limited purpose of proving implied malice the Prosecution was permitted to introduce evidence of Erickson's involvement in a 1990 crash which resulted in criminal charges in juvenile court.

**MINUTES OF THE COURT OF APPEAL
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FRIDAY, JULY 2, 1999, CONTINUED

C027606 THE PEOPLE v. JEFFERY AARON ERICKSON (continued)

2. On page 10, line 3, delete the words “criminal prosecution” and substitute in its place the phrase “true findings on felony charges in juvenile court” so the sentence reads:

In 1990, his evasion of a police officer at speeds approaching 100 miles per hour resulted in the death of a 15-year-old female companion, true findings on felony charges in juvenile court, incarceration, and compulsory participation in intensive counseling program with strong emphasis on substance abuse and the dangers of driving while intoxicated.

There is no change in the judgment. Defendant’s petition for rehearing is denied.

FOR THE COURT:

SIMS, Acting P.J.

CALLAHAN, J.

HULL, J.